

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 28, 2018

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No. 05OD-245

Oahu

Amend Prior Board Action of February 23, 2007, Item D-6, As Amended: *Issuance of a Direct Lease to the University of Hawaii, College of Tropical Agriculture and Human Resources, Fee Simple Conveyance of State Land to the Department of Hawaiian Home Lands and Amend Prior Board Action of September 25, 1998 (Agenda Item D-17), and May 9, 1997 (Agenda Item D-26), Koolaupoko, Waimanalo, Oahu, Tax Map Key: (1) 4-1-008:005,079 and 080, and (1) 4-1-026:004*

The purpose of the amendment is to seek Board approval to authorize a modification to the standard terms and conditions of the most current land patent grant document form to be issued to the Department of Hawaiian Home Lands (DHHL) by deleting paragraph 3) Harmless for parcels of land at Koolaupoko, Waimanalo, Oahu, Tax Map Keys: (1) 4-1-008:079 and (1) 4-1-008:080 (por.) (Lot B)

BACKGROUND:

At its February 23, 2007 meeting, under agenda Item D-6, the Board of Land and Natural Resources (BLNR) approved a fee simple conveyance to DHHL of Tax Map Keys: (1) 4-1-008:079 and 080 (por.) (Lot B), in Waimanalo, Oahu. It also approved the issuance of a direct lease to the University of Hawaii, College of Tropical Agriculture and Human Resources (UH) for Tax Map Keys: (1) 4-1-008:080 (por.) (Lot A), (1) 4-1-008:005 and (1) 4-1-026:004, in Waimanalo, Oahu. A copy of the approved February 23, 2007 Board agenda item D-6 is attached as **EXHIBIT 1**.

Both DHHL and UH dispositions are subject to satisfaction of several applicant requirements specified in the submittal, including subdivision and survey mapping at the applicants' cost. As indicated in EXHIBIT 1, the conveyance to DHHL is pursuant to "a settlement agreement involving the conveyance of 16,518 acres of State land to DHHL."

Subsequently, at the June 23, 2017 meeting, under agenda Item D-7, the Board approved a Grant of Perpetual, Non-Exclusive Easement to DHHL for Access Purposes at Koolaupoko, Waimanalo, Oahu, Tax Map Key: (1) 4-1-008:080, por. (Lot A). This easement allows DHHL to cross over UH's parcel Lot A of Tax Map Key: (1) 4-1-008:080 to access DHHL's parcel Lot B of Tax Map Key: (1) 4-1-008:080.

EXHIBIT 1 later was amended during the Board meeting on December 8, 2017, under agenda item D-9, to provide UH with a Management Right of Entry to support UH's maintenance of the parcels and due diligence in anticipation of a Lease.

REMARKS:

EXHIBIT 1, Recommendation, paragraph 2.a, indicates that 104 acres will be conveyed to DHHL, subject to the "standard terms and conditions of the most current land patent grant document form, as may be amended from time to time."

The land patent grants were prepared using the "most current land patent grant document form." See attached **EXHIBIT 2**, copies of both land patent grants, identified as S-16,061 (tmk (1) 4-1-008: 079) and S-16,072 (tmk (1) 4-1-008: 080 (portion)).

DHHL reviewed the EXHIBIT 2 land patent grants and then requested DLNR delete the "Hold-harmless" clause under paragraph 3. See DHHL's request to DLNR, attached as **EXHIBIT 3**.

The Hold-harmless clause, paragraph 3, in EXHIBIT 2 that DHHL seeks to delete is as follows:

3) Hold-harmless. In case the Patentor shall, without any fault on its part, be made a party to any litigation commenced by or against the Patentee as a result of (a) the issuance of this patent or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain of quiet title proceedings), the Patentee shall defend and hold the Patentor harmless from and against any claim or demand for loss, liability, or damage.

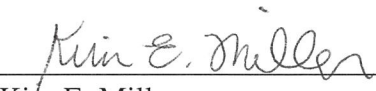
DHHL requests this clause be deleted from the Exhibit 2 land patent grants because DHHL contends that DLNR and DHHL are sister State of Hawaii agencies, and as such, it is inappropriate for one State agency to provide such an indemnity to another State agency. DHHL indicates that if this clause remains in Exhibit 2, the effect is that the State is indemnifying itself. Accordingly, DHHL asserts that the Hold-harmless clause should be deleted.

Since EXHIBIT 1 requires that the EXHIBIT 2 land patent grants are prepared on the "most current land patent grant document form," and since deleting the Hold-harmless clause deviates from the standard form language, on advice from DLNR's deputy attorney general, Staff returns to the Board for its approval to delete the paragraph 3, Hold-harmless clause in both EXHIBIT 2 land patent grants.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of February 23, 2007, Item D-6, as amended, by replacing Recommendation paragraph 2.a. with the following: "The standard terms and conditions of the most current land patent grant document form, as may be amended from time to time, except that paragraph 3) Hold-harmless of the most current form is deleted."
2. Except as amended hereby and by the Board's action of December 8, 2017, Item D-9, all terms and conditions listed in its February 23, 2007 approval to remain the same.

Respectfully Submitted,



Kim E. Miller
Supervising Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT 1

**Board of Land and Natural Resources (BLNR)
approved February 23, 2007, agenda Item D-6, as amended**

AMENDED

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 23, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF: 05OD-245

OAHU

Issuance of a Direct Lease to the University of Hawaii, College of Tropical Agriculture and Human Resources, Fee Simple Conveyance of State Land to the Department of Hawaiian Home Lands and Amend Prior Board Action of September 25, 1998 (Agenda Item D-17), and May 9, 1997 (Agenda Item D-26), Koolaupoko, Waimanalo, Oahu, Tax Map Key: (1) 4 -1-08: 5, 79 and 80, and (1) 4-1-26: 4

APPLICANTS:

University of Hawaii, College of Tropical Agriculture and Human Resources, by its Board of Regents (UH) and the Department of Hawaiian Home Lands, by its Hawaiian Homes Commission (DHHL).

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government (Crown) Lands of Waimanalo situated at Koolaupoko, Waimanalo, Oahu, identified by Tax Map Keys: (1) 4-1-08: 5, 79 and 80 and (1) 4-1-26: 4, as shown on the attached map labeled Exhibit A.

AREA:

Former Meadow Gold Dairies, Inc. (MGD) site (1) 4-1-08: 5 and 80, and (1) 4-1-26: 4; area of 335 acres, more or less (283 acres - lease to UH and 52 acres - conveyance to DHHL).

General Lease No. S-5376 (GL No. S-5376) (1) 4-1-08: 79; area of 52 acres, more or less (conveyance to DHHL).

Remnant (1) 4-1-08: adjacent to 79; area of 0.226 acres, more or less (conveyance to DHHL).

ZONING:

State Land Use District: Agricultural
City and County of Honolulu CZO: AG-1, restricted agricultural and AG-2, general agricultural

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

as Amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
February 23, 2007

EXHIBIT "1"

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

The former MGD site containing 335 acres, more or less, is vacant and unencumbered.

GL No. S-5376 to Ronald and Shirley Wong c/o Dominic and Shawn Kadooka encumbers 52 acres, more or less, for a term of 35 years, expiring on November 30, 2029. Last rental reopening occurred on December 1, 2004, the next rental reopening is scheduled for December 1, 2014. The leased area is used for cultivating corn (see remarks).

The Remnant containing 0.226 acres was inadvertently utilized by DHHL (see remarks) to provide roadway access to its adjacent subdivision.

CHARACTER OF USE:

UH Portion: Agricultural/Bioremediation research and other related University of Hawaii, College of Tropical Agricultural and Human Resources purposes.

DHHL Portion: Fee simple conveyance.

LEASE TERM (UH):

65 years

LEASE COMMENCEMENT DATE (UH):

The first day of the month to be determined by the Chairperson.

ANNUAL RENT (UH):

\$1.00 for the entire term.

METHOD OF PAYMENT (UH):

One time payment in advance.

RENTAL REOPENINGS (UH):

None

PERFORMANCE BOND (UH):

Waive

ENCUMBRANCES:

A ten foot wide easement for the Maunawili Ditch encumbers TMK: (1) 4-1-08: Portions 5 and 80.

Future encumbrances include a Board of Water Supply (BWS) proposed well and reservoir over

TMK: (1) 4-1-08: 5 and water pipeline and access over TMK: (1) 4-1-08: 5, 79 and 80 and (1) 4-1-26: 4, which are currently covered under a right-of-entry issued to BWS.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

UH portion – UH has begun the process of selecting a consultant to prepare an environmental assessment covering its proposed use for the 283-acre portion of the former MGD site.

DHHL portion – This request before the Board to transfer the ownership of State land is an administrative action and does not constitute a use of State land or funds, and therefore, is exempt from the provisions of Chapter 343, Hawaii Revised Statutes, as amended. Inasmuch as the Chapter 343 environmental requirements apply to the Applicant's use of the land, the Applicant shall be responsible for compliance with Chapter 343, Hawaii Revised Statutes, as amended.

DCCA VERIFICATION:

Not applicable as government agencies are not required to register with DCCA.

APPLICANTS REQUIREMENTS:

Applicants shall be required to:

- 1) Process and obtain subdivision at Applicants' own cost.
- 2) Provide survey maps and descriptions according to State DAGS standards at Applicants' own cost.

REMARKS:

For nearly forty years the subject Waimanalo site was used for dairy purposes. Beginning in 1967, General Lease No. S-4101 covering 196 acres (TMK: (1) 4-1-08: 80 and (1) 4-1-26: 4) was issued to L.W. Campos Ranch, Ltd., for dairy purposes.

Then, by way of assignment in 1969, Foremost Dairies Hawaii, Ltd. (Foremost) acquired the leased premises. Also, revocable permits covering 139 acres (TMK: (1) 4-1-08: 5) for pasture purposes were issued to Foremost to support its expansion of the dairy operation.

On September 4, 1997, the Southern Food Group, L.P. (Southern) dba Meadow Gold Dairies, Inc., by assignment, acquired the premises demised under General Lease No. S-4101 and the pasture permit areas. On July 31, 2002, Southern, in downsizing the dairy operation, canceled its pasture permits. Subsequently, Southern decided to discontinue its Waimanalo dairy operation and on August 12, 2005, General Lease No. S-4101 was canceled.

The 283-acre portion (TMK: (1) 4-1-08: Portions 5 and 80 and (1) 4-1-26: 4) of the former MGD site being requested by UH is located adjacent to its 127-acre Waimanalo Agricultural Experimental Station set aside to UH by Governor's Executive Order No. 3786.

A direct lease of the 283 acres to UH is permissible under Section 171-95 (a)(2), Hawaii Revised Statutes, as amended, which states, "(a) Notwithstanding any limitations to the contrary, the board of land and natural resources may, without public auction: (2) Lease to the governments,

agencies, public utilities and renewable energy producers public lands for terms up to, but not in excess of sixty-five years at such rental and on such other terms and conditions as the board may determine"

The 52-acre portion (TMK: (1) 4-1-08: Portion 80) of the former MGD site being requested by DHHL will help satisfy the high volume of demand by its native Hawaiian beneficiaries for residential homesteads in the Waimanalo area. Over 10% (840+) of its Oahu applicants are waiting for homesteads in Waimanalo, more than for any other area in the State.

Also, DHHL is requesting the fee simple title to the remaining 18 acres under the operation of GL No. S-5376 (TMK: (1) 4-1-08: 79) in addition to the 34 acres under its operation that the Board approved for conveyance to DHHL at its September 25, 1998 meeting, under agenda item D-17. Accordingly, amending the Board's prior action of September 25, 1998, to convey all 52 acres under the operation of GL No. S-5376 to DHHL would be in order. This conveyance, if approved by the Board, would be made subject to the remaining term and the conditions contained in GL No. S-5376.

DHHL estimates that it could economically develop between 150 and 200 residential lots on the 52 acres encumbered by GL No. S-5376 because it is the only area there with an existing drainage channel, and therefore, would not require major drainage improvements. The Board's approval to convey the 52-acre portion of the former MGD site to DHHL would allow DHHL to relocate the lessee's farming operation under GL No. S-5376 to the former MGD site. The lessee is receptive to such relocation because more of the 52-acre former MGD site can be cultivated compared to the 52 acres covered by GL No. S-5376.

The conveyance of the 0.226-acre Remnant to DHHL is more of a housekeeping matter that involves the withdrawal of 0.226 acres from the operation of GL No. S-5376 and the subsequent conveyance of the withdrawn area to DHHL. These actions became necessary when DHHL inadvertently used a 0.226-acre portion of GL No. S-5376 as a roadway access for its adjacent homestead subdivision during the subdivision's construction in March 1997.

The Board approved the withdrawal of the 0.226 acres from GL No. S-5376 and its conveyance to DHHL at its May 9, 1997, meeting, under agenda item D-26. The Board's approval was subject to consideration for the 0.226 acres of its fair market value, to be used against whatever outstanding obligations the Department of Land and Natural Resources has with DHHL, as determined by legal settlement. The withdrawal of the area from GL No. S-5376 was completed, however, the conveyance of the withdrawn area to DHHL was not.

All the conveyances to DHHL subject to this request would be applied, on an acre for acre basis, toward reducing the remaining balance of land the State owes DHHL, pursuant to a settlement agreement involving the conveyance of 16,518 acres of State land to DHHL. Accordingly, amending the Board's prior action of May 9, 1997, by deleting "Fair Market Value" from the description under Consideration would be in order.

Comments were solicited from the State Departments of Health, Hawaiian Home Lands, Agriculture, Land and Natural Resources, Divisions of Forestry and Wildlife, and Historic Preservation, the Office of Conservation and Coastal Lands, the Office of Hawaiian Affairs and the City and County of Honolulu Departments of Planning and Permitting, Facilities Maintenance and the Board of Water Supply. The following comments were received:

Office of Hawaiian Affairs: "OHA is supportive of the use of these lands by DHHL for housing..."

Historic Preservation: "According to available documents maintained at the State Historic Preservation Division (SHPD), an archaeological inventory survey, which identified historically significant sites including a portion of the Waimanalo Ditch System (SIHP NO. 50-80-15-4042), has been conducted on a portion of the subject property (Drolet and Sinoto, 1999, Archaeological Inventory Survey DWS Well III, SHPD Rpt. No. O-1856). However, the inventory survey focused on the specific area of potential effect (APE) associated with the proposed undertaking at the time, and was not a survey of the entire subject property. In addition, available records indicate that SIHP No. 50-80-15-1031, a traditional Hawaiian heiau (e.g. Pueo Heiau), is located on the subject property.

Therefore, in order to determine whether additional historically significant sites are present on the subject property, and the effect of the proposed undertaking on known historic sites, we believe that an archaeological inventory survey is warranted. The SHPD website contains a listing of local firms (<http://www.hawaii.gov/dlnr/hpd/archcon.htm>). We recommend archaeological consultants to contact us, or, alternatively, to prepare a basic inventory survey plan (which can be forwarded to us for review) before starting the work, in order to ensure that the study meets the requirements of HAR Chapter 13-276."

CCH, Department of Planning and Permitting: "We acknowledge the right of the Department of Hawaiian Home Lands (DHHL) to override county land use controls, which place the site mostly in the AG-1 Restricted Agricultural District and also partly in the AG-2 General Agricultural District. However, the subject site appears to be outside of the Rural Community Boundary, which acts to define and contain established communities in rural areas and to protect existing agricultural areas, and in an agricultural area, where the primary use is agriculture or uses directly supportive of agriculture, according to the Koolaupoko Sustainable Community Plan. Thus, we encourage DHHL to consider using the site to provide agricultural homesteads for those DHHL beneficiaries who are interested in such opportunities."

CCH, Department of Facilities Maintenance: "We have no objections."

Board of Water Supply: "We have no objections," provided the dispositions are "subject to BWS proposed Well and Reservoir over 4-1-08: 5 and water pipeline and access over 4-1-08: 5, 79 and 80 and 4-1-26: 4."

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to the University of Hawaii, College of Tropical Agriculture and Human Resources covering the subject 283 acres, more or less, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The standard terms and conditions of the most current general lease document form, as may be amended from time to time.
 - b. Review and approval by the Department of the Attorney General.
 - c. Compliance with Chapter 343 prior to use of the site by the University.

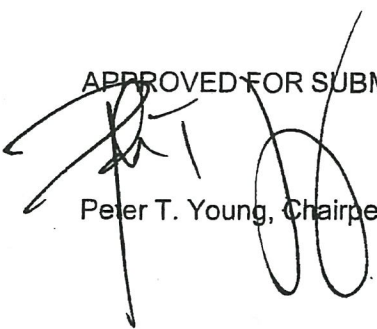
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the fee simple conveyance of the subject 104 acres, more or less, to DHHL, subject to the following:
 - a. The standard terms and conditions of the most current land patent grant document form, as may be amended from time to time.
 - b. The land shall be conveyed as is.
 - c. Authorize the application of the subject 104 acres of State-owned land upon its conveyance to DHHL as an acre for acre reduction of the remaining acreage to be conveyed to DHHL in partial satisfaction of the Settlement Agreement between the State and DHHL.
 - d. Review and approval by the Department of the Attorney General.
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Amend the Board's prior action of September 25, 1998, under agenda item D-17, to convey all 52 acres, more or less, under the operation of GL No. S-5376 to DHHL.
4. Amend the Board's prior action of May 9, 1997, under agenda item D-26, by deleting "Fair Market Value" from the description under Consideration.

Respectfully Submitted,



Gary Martin
Land Agent

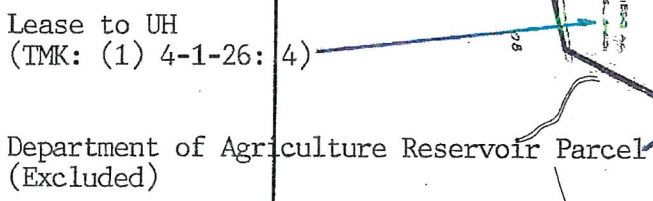
APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

Approved As Amended as follows:

1. Recommendation 1, 3rd line: Delete "the subject 283 acres, more or less, " and replace with "TMK: (1) 4-1-26:4 and (1) 4-1-08: Portion 5 and Portion 80. Exact area to be worked out between UH and DHHL."
2. Recommendation 2, 3rd line: Delete "the subject 104 acres, more or less, " and replace with "TMK: (1) 4-1-08: Portion 5 and Portion 80. Exact area to be worked out between UH and DHHL."
3. Recommendation 2c, 1st Line: Delete "of the subject 104 acres."



DEPARTMENT OF THE TAX COMMISSIONER
TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP
FIRST DIVISION
ZONE SEC. PLAT
4 1 26
CONTAINING PARCELS
SCALE: 1 IN. = 300 FT.

EXHIBIT 2

**Land Patent Grants
S-16,061 (tmk (1) 4-1-008: 079)
and 16,072 (tmk (1) 4-1-008: 080 (por.) (Lot B))**

[illegible]

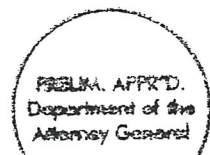
Tax Map Key No. (1) 4-1-008:079

LAND PATENT GRANT NO. S-16,061

PATENTOR: STATE OF HAWAII

PATENTEE: DEPARTMENT OF HAWAIIAN HOME LANDS.
Post Office Box 1879
Honolulu, Hawaii 96805

BY THIS PATENT the State of Hawaii, in conformity with the laws of the State of Hawaii relating to public lands, pursuant to the approval by the Board of Land and Natural Resources on October 28, 1994, April 9, 1998, September 25, 1998, August 27, 2004, September 24, 2004, October 14, 2005, February 23, 2007, October 28, 2010, and acting pursuant to Section 171-95(a)(1), Hawaii Revised Statutes, makes known to all men that it does this day grant and confirm unto the DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, STATE OF HAWAII, whose address is Post Office Box 1879, Honolulu, Hawaii 96805, hereinafter referred to as the "Patentee," for good and valuable consideration, the receipt whereof is hereby acknowledged, all of the land situate at Waimanalo, Koolaupoko, Oahu, Hawaii, designated "Portion of the Government (Crown) Land



of Waimanalo," containing an area of 51.927 acres, more or less,

TOGETHER WITH an easement in favor of the State of Hawaii, its successors and assigns, for access and utility purposes over and across Waimanalo Residence Lots, Unit 9, File Plan 2216, and

SUBJECT, HOWEVER, to portions of the following easements as shown on Waimanalo Residence Lots, Unit 9, File Plan 2216:

1. Easement 4 for Electrical Purposes,
2. Easement 5 for Drainage Purposes, and
3. Easement 6 for Drainage Purposes,

SUBJECT, ALSO, to the following easements in favor of the State of Hawaii, its successors and assigns:

Access Easement containing an area of 1.51 acres,

Portion of Perpetual Non-Exclusive Drainage Easement D-1, Governor's Executive Order 4215 containing an area of 1.218 acres,

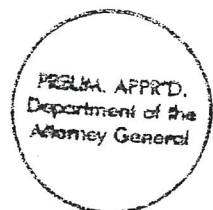
Portion of Perpetual Non-Exclusive Access and Utility Easement, W-1, Governor's Executive Order 4215 containing an area of 0.021 acre,

SUBJECT, ALSO, to Perpetual Non-Exclusive Drainage Easement covered by Grant of Non-Exclusive Easement: State of Hawaii to the City and County of Honolulu dated February 1, 2008 and recorded as Document No. 2008-018584 (Land Office Deed 28673) containing an area of 14,154 square feet,

all more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, respectively designated as C.S.F. No. 25,425 and H.S.S. Plat 2200-D both dated March 27, 2015 and further referenced as Tax Map Key No: (1) 4-1-008:079.

SUBJECT, HOWEVER, to the following:

- 1) Unrecorded General Lease No. S-5376 dated June 28, 1996, leased to Ronald K.S. Wong, husband of Shirley Wong, as his separate property, and by mesne assignment, said lease was



assigned to Shawn C. Kadooka and Dominic K. Kadooka, by that certain unrecorded Assignment of General Lease No. S-5376 executed February 7, 2008, consent thereto given by the State of Hawaii, Board of Land and Natural Resources executed by unrecorded instrument executed June 25, 2009, and portion of said general lease was withdrawn by that certain unrecorded Partial Withdrawal from General Lease No. S-5376 dated October 10, 2000.

AND THE PATENTEE, for itself, its successors and assigns, covenants with the State of Hawaii, and its successors as follows:

1) The Patentee acknowledges and is fully aware that a comprehensive search of title covering the lands conveyed herein has not been completed by Patentor and agrees that the lands conveyed herein may be subject to additional encumbrances, known or unknown, recorded or unrecorded.

2) Non-warranty. The Patentor does not warrant the conditions of the lands conveyed herein, and the Patentee accepts said lands "as is."

3) Hold-harmless. In case the Patentor shall, without any fault on its part, be made a party to any litigation commenced by or against the Patentee as a result of (a) the issuance of this patent or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain or quiet title proceedings), the Patentee shall defend and hold the Patentor harmless from and against any claim or demand for loss, liability, or damage.

TO HAVE AND TO HOLD said granted land unto the said DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, STATE OF HAWAII, its successors and assigns forever, subject, however, to the reservations, conditions and covenants herein set forth.



IN WITNESS WHEREOF, the State of Hawaii, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and this Patent to be duly executed this _____ day of _____, 20_____.

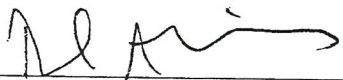
STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meetings held on October 28, 1994, April 9, 1998, September 25, 1998, August 27, 2004, September 24, 2004, October 14, 2005, February 23, 2007 and October 28, 2010.

By _____
SUZANNE D. CASE
Chairperson
Board of Land and
Natural Resources

PATENTOR

APPROVED AS TO FORM:



DANIEL A. MORRIS
Deputy Attorney General

Dated: MAR 17 2018

APPROVED AS TO FORM:

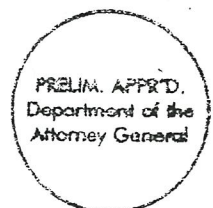
DEPARTMENT OF HAWAIIAN HOME
LANDS, STATE OF HAWAII

By _____
JOBIE M.K. MASAGATANI
Chairman
Hawaiian Homes Commission

PATENTEE

Deputy Attorney General

Dated: _____





STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,425
H.S.S. Plat 2200-D

March 27, 2015

PORTION OF
THE GOVERNMENT (CROWN) LAND OF WAIMANALO

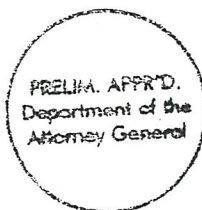
Waimanalo, Koolaupoko, Oahu, Hawaii

Being also all of Lot 57 and portions of Lots 17, 18, 19 and 20
of Waimanalo Residence Lots, Unit 9, File Plan 2216.

Beginning at the northeast corner of this parcel of land and at the
south corner of Lot 19 of Waimanalo Residence Lots, Unit 9, File Plan 2216, the
coordinates of said point of beginning referred to Government Survey Triangulation
Station "WAIMANALO RIDGE" being 9206.37 feet South and 11,783.07 feet East,
thence running by azimuths measured clockwise from True South:-

Along the middle of stream along the Hawaiian Home Lands of Waimanalo
for the next four (4) courses, the direct azimuths and distances between
points along said middle of stream being:

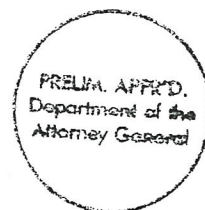
- | | | | |
|----|-----|---------|--|
| 1. | 2° | 00' | 363.05 feet; |
| 2. | 2° | 00' | 204.45 feet; |
| 3. | 24° | 18' | 548.00 feet; |
| 4. | 35° | 15' 10" | 241.64 feet to the middle of Kailua Ditch; |



March 27, 2015

Thence along the middle of Kailua Ditch along Parcel 5-A of the Government (Crown) Land of Waimanalo for the next two (2) courses, the direct azimuths and distances between points along said middle of Kailua Ditch being:

5. 119° 10' 40" 934.76 feet;
6. 119° 51' 10" 912.00 feet;
7. 195° 42' 771.50 feet along Lot 50 of Waimanalo Agricultural Subdivision;
8. 202° 30' 155.00 feet along Lot 50 of Waimanalo Agricultural Subdivision;
9. 237° 47' 310.00 feet along Lot 50 of Waimanalo Agricultural Subdivision;
10. 265° 20' 110.00 feet along Lot 50 of Waimanalo Agricultural Subdivision;
11. 355° 20' 50.00 feet along the west end of Kulaiwi Street;
12. 265° 20' 197.53 feet along the south side of Kulaiwi Street;
13. 271° 00' 580.99 feet along the south side of Kulaiwi Street;
14. 316° 21' 93.93 feet along the southwest side of Kulaiwi Street;
15. 10° 22' 34.26 feet along the west side of Kulaiwi Street;
16. 58° 40' 434.64 feet along the northwest side of Kulaiwi Street;
17. 34° 15' 356.21 feet along the west side of Kulaiwi Street;
18. 295° 16' 208.28 feet along the south side of Kulaiwi Street;
19. 274° 15' 223.77 feet along the south side of Kulaiwi Street;
20. 254° 32' 255.25 feet along the south side of Kulaiwi Street;
21. 268° 50' 305.26 feet along the south side of Kulaiwi Street and Lot 20 of Waimanalo Residence Lots, Unit 9, File Plan 2216;



March 27, 2015

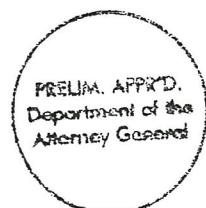
22. 215° 56' 183.46 feet along the Hawaiian Home Lands of Waimanalo along the remainders of Lots 20, 19, 18 and 17 of Waimanalo Residence Lots, Unit 9, File Plan 2216;
23. 352° 25' 30" 109.70 feet along the Hawaiian Home Lands of Waimanalo along the remainders of Lots 17, 18 and 19 of Waimanalo Residence Lots, Unit 9, File Plan 2216;
24. 2° 00' 30" 48.50 feet along the Hawaiian Home Lands of Waimanalo along the remainder of Lot 19 of Waimanalo Residence Lots, Unit 9, File Plan 2216 to the point of beginning and containing an AREA OF 51.927 ACRES, MORE OR LESS.

TOGETHER WITH an easement in favor of the State of Hawaii, its successors and assigns for access and utility purposes over and across Waimanalo Residence Lots, Unit 9, File Plan 2216.

SUBJECT, HOWEVER, to portions of the following easements as shown on Waimanalo Residence Lots, Unit 9, File Plan 2216:

1. Easement 4 for Electrical Purposes.
2. Easement 5 for Drainage Purposes.
3. Easement 6 for Drainage Purposes.

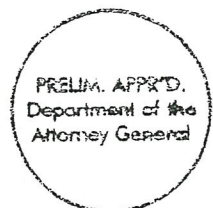
SUBJECT, ALSO, to the following easements in favor of the State of Hawaii, its successors and assigns as shown on plan attached hereto and made a part hereof and more particularly described as follows:



ACCESS EASEMENT

Beginning at the northeast corner of this easement, being also the end of Course 10 of the above-described parcel of land, thence running by azimuths measured clockwise from True South:-

1. 355° 20' 50.00 feet along the west end of Kulaiwi Street;
2. 85° 20' 97.74 feet;
3. 57° 47' 281.84 feet;
4. 22° 30' 136.13 feet
5. 15° 42' 768.53 feet to the middle of Kailua Ditch;
6. 105° 42' 50.00 feet along the middle of Kailua Ditch along Parcel 5-A of the Government (Crown) Land of Waimanalo;
7. 195° 42' 771.50 feet along Lot 50 of Waimanalo Agricultural Subdivision;
8. 202° 30' 155.00 feet along Lot 50 of Waimanalo Agricultural Subdivision;
9. 237° 47' 310.00 feet along Lot 50 of Waimanalo Agricultural Subdivision;
10. 265° 20' 110.00 feet along Lot 50 of Waimanalo Agriculture Subdivision to the point of beginning and containing an AREA OF 1.51 ACRES.



March 27, 2015

PORTION OF
PERPETUAL NON-EXCLUSIVE DRAINAGE EASEMENT D-1,
GOVERNOR'S EXECUTIVE ORDER 4215

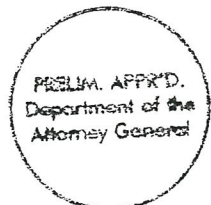
Beginning on the middle of Kailua Ditch at the southwest corner of
this easement, the true azimuth and distance from the southwest corner along the above-
described parcel of land being: 285° 42' 24.54 feet, thence running by azimuths
measured clockwise from True South:-

1. Along a curve to the left with a radius of 40.00 feet, the chord azimuth and distance
being:
176° 14' 53" 43.68 feet;
2. 195° 42' 314.00 feet;
3. 249° 10' 293.50 feet;
4. 221° 00' 22.50 feet;
5. 242° 30' 36.50 feet;
6. 209° 00' 19.00 feet;
7. 251° 20' 45.00 feet;
8. 181° 30' 42.50 feet;
9. 199° 00' 79.00 feet;
10. 173° 40' 68.00 feet;
11. 109° 00' 40.00 feet;
12. 137° 00' 43.00 feet;
13. 186° 00' 101.00 feet;
14. 263° 00' 134.00 feet;



March 27, 2015

- | | | |
|-----|---|--|
| 15. | 270° 00' | 62.00 feet; |
| 16. | 282° 00' | 36.00 feet; |
| 17. | 4° 00' | 81.00 feet; |
| 18. | 29° 00' | 62.00 feet; |
| 19. | 56° 00' | 44.00 feet; |
| 20. | 94° 00' | 81.49 feet; |
| 21. | 353° 40' | 70.09 feet; |
| 22. | 19° 00' | 80.42 feet; |
| 23. | 1° 30' | 53.38 feet; |
| 24. | 71° 20' | 51.22 feet; |
| 25. | 29° 00' | 17.28 feet; |
| 26. | 62° 30' | 38.72 feet; |
| 27. | 41° 00' | 23.72 feet; |
| 28. | 69° 10' | 288.44 feet; |
| 29. | 15° 42' | 299.84 feet; |
| 30. | Thence along a curve to the right with a radius of 57.00 feet, the chord azimuth and distance being:
0° 59' 26" 46.80 feet
to the middle of Kailua Ditch; | |
| 31. | 105° 42' | 17.34 feet along the middle of Kailua Ditch to the point of beginning and containing an AREA OF 1.218 ACRES. |



March 27, 2015

PORTION OF
PERPETUAL NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT W-1,
GOVERNOR'S EXECUTIVE ORDER 4215

Beginning on the middle of Kailua Ditch at the southeast corner of this easement, the true azimuth and distance from the southwest corner along the above-described parcel of land being: 285° 42' 24.54 feet, thence running by azimuths measured clockwise from True South:-

1. Along the middle of Kailua Ditch along Parcel 5-A of the Government (Crown) Land of Waimanalo, the direct azimuth and distance being:
105° 42' 24.54 feet;
2. 195° 42' 46.78 feet along Lot 50 of Waimanalo Agricultural Subdivision;
3. Thence along a curve to the right with a radius of 40.00 feet, the chord azimuth and distance being:
348° 00' 56" 52.83 feet
to the point of beginning and containing an
AREA OF 0.021 ACRE.

SUBJECT, ALSO, to Perpetual Non-Exclusive Drainage Easement covered by Grant of Non-Exclusive Easement: State of Hawaii to the City and County of Honolulu dated February 1, 2008 and recorded as Document No. 2008-018584 (Land Office Deed 28673) as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the north corner of this easement, being also the initial point of beginning of the above-described parcel of land, thence running by azimuths measured clockwise from True South:-



March 27, 2015

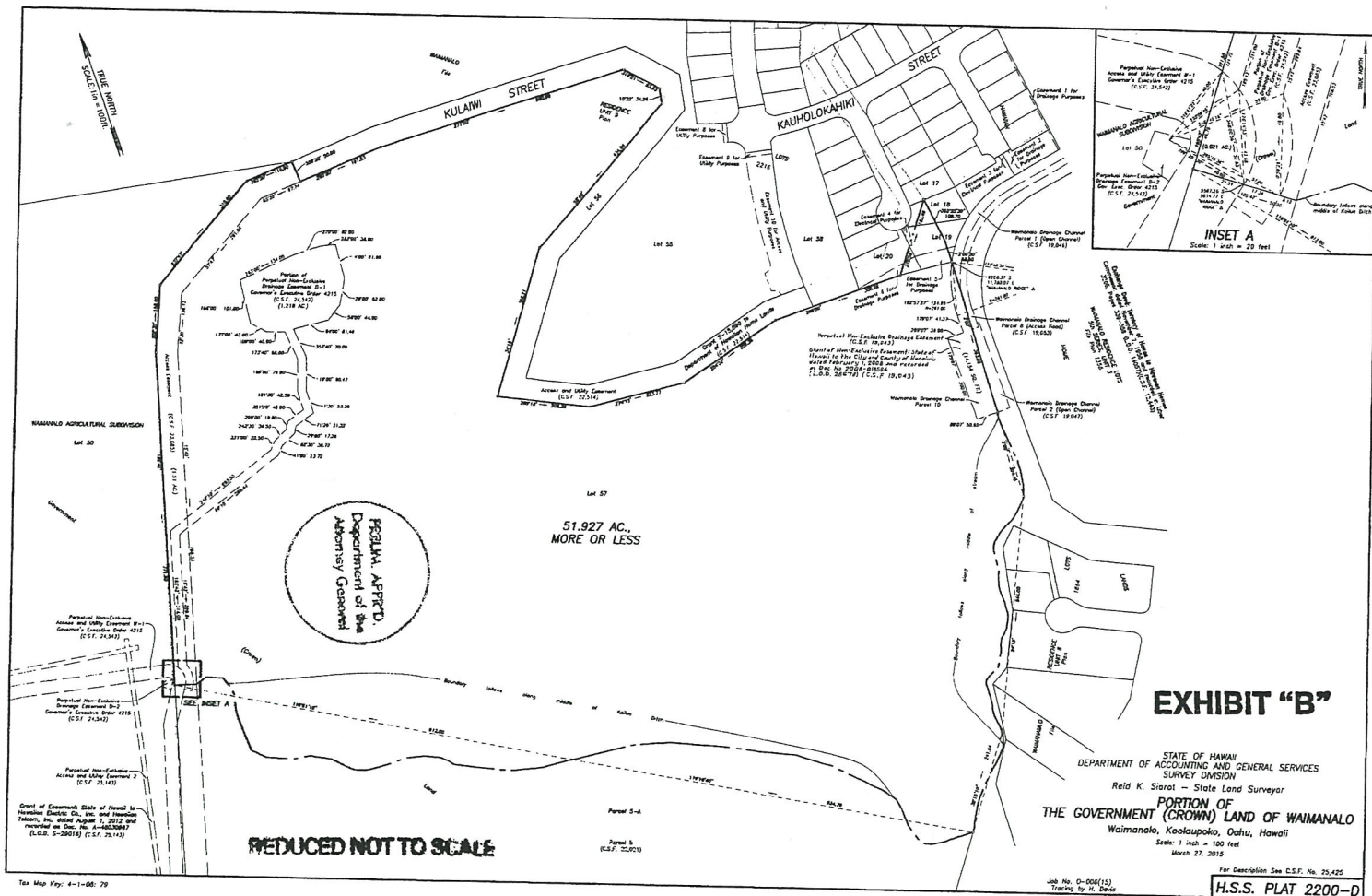
1. Along the middle of stream along the Hawaiian Home Lands of Waimanalo, the
direct azimuth and distance being:
2° 00' 363.05 feet;
2. 89° 07' 50.65 feet;
3. 179° 07' 200.00 feet;
4. 269° 07' 39.00 feet;
5. 179° 07' 41.27 feet;
6. Thence along a curve to the right with a radius of 261.00 feet, the chord azimuth and
distance being:
192° 57' 57" 124.95 feet
to the point of beginning and containing an
AREA OF 14,154 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Gerald Z. Yonashiro
Gerald Z. Yonashiro
Land Surveyor hbd

Compiled from CSF 23085,
File Plan 2216 and other
Govt. Survey Records.





Oahu, Hawaii, designated "Portion of the Government (Crown) Land of Waimanalo, Lot B," containing an area of 52.620 acres, TOGETHER WITH, Easement A for Access Purposes, containing an area of 1.290 acres,

SUBJECT, HOWEVER, to the following easements:

1. Portion of Easement 2 of Perpetual Non-Exclusive Access and Utility Easement covered by Grant of Easement: State of Hawaii to Hawaiian Electric Co., Inc. and Hawaiian Telcom, Inc. dated August 1, 2012 and recorded as Document No. A-46030967 (L.O.D. S-29016).

2. Perpetual Non-Exclusive Easements, Governor's Executive Order 4215.

a. Portion of Access and Utility Easement W-1.

b. Drainage Easement D-2.

RESERVING to the State of Hawaii, its successors and assigns, the following easements:

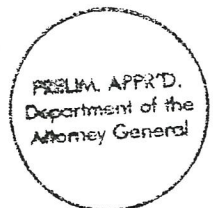
1. An easement 40.00 feet wide for Kailua Ditch, said easement extending fifteen (15.00) feet makai (northerly) and twenty-five (25.00) feet mauka (southerly) from the centerline of Kailua Ditch, with rights of ingress and egress thereto for construction, maintenance and repairs of said Kailua Ditch.

2. The waters and all riparian and other rights in and to the existing streams within the boundaries of Lot B.

3. Easements for access purposes over and across all roads within the boundaries of Lot B, as they exist or as they may be modified from time to time.

The above is all more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated as C.S.F. No. 25,640 and dated December 8, 2017, and further referenced as Tax Map Key No. (1) 4-1-008:Portion 080.

AND THE PATENTEE, for itself, its successors and assigns, covenants with the State of Hawaii, and its successors as follows:

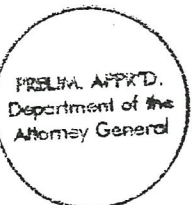


1) The Patentee acknowledges and is fully aware that a comprehensive search of title covering the lands conveyed herein has not been completed by Patentor and agrees that the lands conveyed herein may be subject to additional encumbrances, known or unknown, recorded or unrecorded.

2) Non-warranty. The Patentor does not warrant the conditions of the lands conveyed herein, and the Patentee accepts said lands "as is."

3) Hold-harmless. In case the Patentor shall, without any fault on its part, be made a party to any litigation commenced by or against the Patentee as a result of (a) the issuance of this patent or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain or quiet title proceedings), the Patentee shall defend and hold the Patentor harmless from and against any claim or demand for loss, liability, or damage.

TO HAVE AND TO HOLD said granted land unto the said DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, STATE OF HAWAII, its successors and assigns forever, subject, however, to the reservations, conditions and covenants herein set forth.



IN WITNESS WHEREOF, the State of Hawaii, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and this Patent to be duly executed this _____ day of _____, 20_____.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meetings held on October 28, 1994, April 9, 1998, September 25, 1998, August 27, 2004, September 24, 2004, October 14, 2005, February 23, 2007, and October 28, 2010.

By _____
SUZANNE D. CASE
Chairperson
Board of Land and
Natural Resources

PATENTOR

APPROVED AS TO FORM:



COLIN J. LAU
Deputy Attorney General

Dated: 4/10/18

DEPARTMENT OF HAWAIIAN HOME
LANDS, STATE OF HAWAII

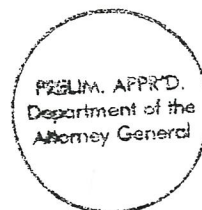
By _____
JOBIE M.K. MASAGATANI
CHAIRPERSON
HAWAIIAN HOMES COMMISSION

PATENTEE

APPROVED AS TO FORM:

Deputy Attorney General

Dated: _____





STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,640

December 8, 2017

PORTION OF THE GOVERNMENT (CROWN) LAND OF WAIMANALO

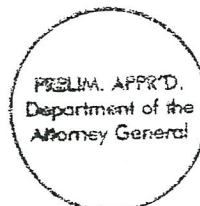
LOT B

Waimanalo, Koolaupoko, Oahu, Hawaii

Being also Lot B of the subdivision of Lot 50 of Waimanalo Agricultural Subdivision.

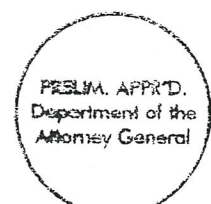
Beginning at the northwest corner of this parcel of land and at the southwest corner of Lot 55 of Waimanalo Residence Lots, Unit 9, File Plan 2216, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIMANALO RIDGE" being 8303.56 feet South and 9268.51 feet East, thence running by azimuths measured clockwise from True South:-

1. 279° 27' 302.50 feet along Lot 55 of Waimanalo Residence Lots, Unit 9, File Plan 2216;
2. 279° 43' 878.00 feet along Lot 55 of Waimanalo Residence Lots, Unit 9, File Plan 2216;
3. 85° 20' 110.00 feet along Lot 57 of Waimanalo Residence Lots, Unit 9, File Plan 2216;



- TOGETHER WITH, Easement A for Access Purposes as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the northeast corner of this easement and at the south corner of the south end of Waikupanaha Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIMANALO RIDGE" being 7776.99 feet South and 8872.78 feet East, thence running by azimuths measured clockwise from True South:-



December 8, 2017

1. 46° 00' 121.59 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
2. 50° 14' 186.02 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
3. 44° 26' 321.67 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
4. 359° 26' 42.43 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
5. 314° 26' 60.35 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
6. Thence along the remainder of Lot A of Waimanalo Agricultural Purposes Site on a curve to the left with a radius of 300.00 feet, the chord azimuth and distance being:
304° 14' 15" 106.21 feet;
7. 294° 02' 30" 350.47 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
8. Thence along the remainder of Lot A of Waimanalo Agricultural Purposes Site on a curve to the right with a radius of 70.00 feet, the chord azimuth and distance being:
339° 02' 30" 98.99 feet;
9. 24° 02' 30" 685.92 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
10. 333° 35' 46" 2.03 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
11. Thence along the remainder of Lot A of Waimanalo Agricultural Purposes Site on a curve to the left with a radius of 200.00 feet, the chord azimuth and distance being:
311° 20' 46" 151.46 feet;
12. 289° 05' 46" 33.92 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
13. 298° 35' 46" 30.83 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;



December 8, 2017

14. 24° 19' 29" 30.08 feet along the above-described Lot B;
15. 118° 35' 46" 30.58 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
16. 109° 05' 46" 31.43 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
17. Thence along the remainder of Lot A of Waimanalo Agricultural Purposes Site on a curve to the right with a radius of 230.00 feet, the chord azimuth and distance being:
131° 20' 46" 174.18 feet;
18. 153° 35' 46" 3.19 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
19. 204° 02' 30" 708.32 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
20. Thence along the remainder of Lot A of Waimanalo Agricultural Purposes Site on a curve to the left with a radius of 50.00 feet, the chord azimuth and distance being:
159° 02' 30" 70.71 feet;
21. 114° 02' 30" 350.47 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
22. Thence along the remainder of Lot A of Waimanalo Agricultural Purposes Site on a curve to the right with a radius of 320.00 feet, the chord azimuth and distance being:
124° 14' 15" 113.29 feet;
23. 134° 26' 110.35 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
24. 144° 58' 24" 26.76 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;
25. 226° 00' 395.00 feet along Reservoir Site;
26. 310° 00' 18.46 feet along the remainder of Lot A of Waimanalo Agricultural Purposes Site;

C.S.F. No. 25,640

December 8, 2017

27. 230° 14'

157.65 feet along the remainder of Lot A of Waimanalo
Agricultural Purposes Site;

28. 226° 00'

116.85 feet along the remainder of Lot A of Waimanalo
Agricultural Purposes Site;

29. 304° 41' 30"

20.40 feet along the south end of Waikupanaha Street to the
point of beginning and containing an AREA OF
1.290 ACRES.

SUBJECT, HOWEVER, to the following easements as shown on plan attached
hereto and made a part hereof:

1. Portion of Easement 2 of Perpetual Non-Exclusive Access and Utility
Easement covered by Grant of Easement: State of Hawaii to Hawaiian
Electric Co., Inc. and Hawaiian Telcom, Inc. dated August 1, 2012 and
recorded as Document No. A-46030967 (L.O.D. S-29016).
2. Perpetual Non-Exclusive Easements, Governor's Executive Order 4215.
 - a. Portion of Access and Utility Easement W-1.
 - b. Drainage Easement D-2.

RESERVING to the State of Hawaii, its successors and assigns the following
easements as shown on plan attached hereto and made a part hereof.

1. An easement 40.00 feet wide for Kailua Ditch, said easement extending
fifteen (15.00) feet makai (northerly) and twenty-five (25.00) feet
mauka (southerly) from the centerline of Kailua Ditch, with rights of
ingress and egress thereto for construction, maintenance and repairs of
said Kailua Ditch.
2. The waters and all riparian and other rights in and to the existing
streams within the boundaries of the above-described Lot B.



C.S.F. No. 25,640

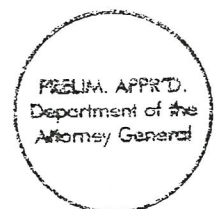
December 8, 2017

3. Easements for access purposes over and across all roads within the boundaries of the above-described Lot B, as they exist or as they may be modified from time to time.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: *Gerald Z. Yonashiro*
Gerald Z. Yonashiro
Land Surveyor rk

Compiled from map and desc.
furn. by ControlPoint Surveying,
Inc. Said map and desc. have been
examined and checked as to form
and mathematical correctness but
not on the ground by the Survey
Division.



MAC December 8, 2017

EXHIBIT 3

**DHHL, Andrew H. Choy Memo to DLNR, Kim Miller
Dated May 22, 2018 for Land Patent Grants
S-16,061 (tmk (1) 4-1-008: 079)
and 16,072 (tmk (1) 4-1-008: 080 (por.) (Lot B))**

PO-18-263

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
PLANNING OFFICE

May 22, 2018

To: Kim Miller, Supervising Land Agent, DLNR
Thru: M. Kaleo Manuel, Acting Planning Program Manager
From: Andrew H. Choy, Planner
Subject: Land Patent Grants S-16,072 & 061.Waimanalo, Oahu

DHHL Deputy Attorney Generals are recommending a substantive change to the above Land Patent Grants. DHHL Deputy Attorney Generals cannot accept the indemnity provision on page 3 of both land patent grants and are recommending deletion of the following language from both land patent grants:

"(3) Hold harmless. In case the Patentor shall, without any fault on its part, be made a party to any litigation commenced by or against the Patentee as a result of (a) the issuance of this patent or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain of quiet title proceedings), the Patentee shall defend and hold the Patentor harmless from and against any claim or demand for loss, liability, or damage."

As such, these land patent grants will need to be re-drafted with the above revision made prior to DHHL Deputy Attorney General acceptance of the land patent grants.

RECEIVED
LAND DIVISION
2018 MAY 24 AM 10:39
DEPT OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

EXHIBIT 3